IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH,

AT HYDERABAD

**HON'BLE SRI JUSTICE V.V.S. RAO**

W.P. No. 22735 OF 2005

Date: 21.10.2005

BETWEEN:

Smt. Laxmi Tayaramma

.... PETITIONER

And

1. The Land Acquisition Officer/Revenue Divisional Officer, Kavali District, Nellore, and another.

.... RESPONDENTS

**HONOURABLE SRI JUSTICE V.V.S. RAO**

**WRIT PETITION No. 22735 OF 2005**

**ORDER:**

The petitioner filed the present writ petition seeking a direction to the first respondent to refer the land acquisition matter to the Civil Court under Section 30 and 31 of the Land Acquisition Act, 1894 (for short 'the Act') duly considering the objections filed by her on 6.5.2005.

In brief the case of the petitioner is that her grandfather was the owner of the private tank known as Perapanaidu Private Tank in S.No.219/3 of Brahmanakaka village of Jaladanki Mandal of Nellore District. After the death of her grandfather her father and uncles succeeded to the property, and she claims 1/7$^{th}$ share in the said property. It appears that the land was acquired by the second respondent under the Act by award dated 30.4.2000 vide Award No.1/2000-2001. The petitioner states that she is staying with her husband in USA and feigns ignorance about the proceedings under the Act. After having come to know about the acquisition, she approached the first respondent by filing objections, in vain.

Therefore, the present writ petition is filed.

The learned counsel for the petitioner Sri T.V. Ramana Rao strenuously contends that the petitioner was not given notice in the award enquiry, and therefore, she could not appear pursuant to the notification under Section 4(1) and declaration under Section 6 of the Act and the notice under Sections 9(1) and 9(3) of the Act is not even served on her. Therefore, he contends that the first respondent is under obligation to refer the matter/title dispute to the civil Court under Section 30 and 31 of the Act.

The learned Assistant Government Pleader for Revenue (LA) Sri G. Purushottam Reddy placed reliance on the decision of the Full Bench consisting of five learned Judges of this Court in **Repaka Bhyravamurthy v. Muppidi Venkataraju** and submits that unless and until a person files an application before the Land Acquisition Officer during the award enquiry, such person cannot seek reference to civil Court under Section 30 of the Act.

The Full Bench of this Court in Repaka Bhyravamurthy's case (supra) considered the question whether the provisions of Order 1 Rule 10 of the Code of Civil Procedure, 1908 (for short 'the Code') are applicable to the reference under Section 30 of the Act. Dealing with the question, this Court answered in the affirmative, observing that when the dispute as to apportionment of compensation or right to compensation is pending in civil Court, a person who did not appear before the Land Acquisition Officer may as well appear before the civil Court and file an application under Order 1 Rule 10 of the Code. However, in a case of this nature, where a person did not appear before the Land Acquisition Officer at the time of award in spite of publication of notice under Section 9(3) of the Act, cannot seek reference to the civil Court. In such a case, the remedy of such person is to sue those co-sharers, who received the entire compensation allegedly without informing the aggrieved person.

In this case admittedly, the award was passed on 30.4.2000. Therefore, the petitioner, being not a party before the Land Acquisition Officer, is not entitled to seek reference under Section 30 of the Act.

The Writ Petition, for the above reasons, is accordingly dismissed at the admission stage.

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(**V.V.S. RAO, J.)**

21st October, 2005

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